

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Joseph LOSCALZO et al. Confirmation No.: 9697  
Application No.: 10/692,724 Art Unit: 1657  
Filed: October 27, 2003 Examiner: K. C. Srivastava  
Title: METHODS OF TREATING VASCULAR DISEASES  
CHARACTERIZED BY NITRIC OXIDE INSUFFICIENCY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR  
RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R.  
§§ 1.702-1.705**

Dear Madam:

The Notice of Allowance mailed on **June 23, 2009** for the application referenced above recites a patent term adjustment of **611** days. Applicants believe that the application is entitled to more than **611** days of patent term adjustment, and hereby request reconsideration of the patent term adjustment as follows.

Applicants believe the total patent term adjustment under 37 C.F.R. §§ 1.702-1.704 should be the total of:

(1) the total number of days (**1380 days as of September 23, 2009**) under 37 C.F.R. §§ 1.702(b) and 1.703(b) for the Patent Office delay in issuing the patent after **October 27, 2006** (three years from the filing date) until the actual issue date of the patent (to be determined).

Pursuant to 37 C.F.R. § 1.703(f). *See Wyeth v. Dudas*, 88 U.S.P.Q.2d 1538 (D.D.C. 2008), as of **September 23, 2009**, the total adjustment based on (1) above would be **1380** days, but this is subject to recalculation depending on the actual issue date of the patent.

The additional days of patent term adjustment are requested under 37 C.F.R. §§ 1.702(b) and 1.703(b) for the following reason.

37 C.F.R. 1.702(b) states:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) ....

The instant application was filed under 35 U.S.C. § 111(a) on **October 27, 2003** and therefore should have issued by **October 27, 2006**.

37 C.F.R. § 1.703 states in pertinent part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) ... and ending ***on the date a patent was issued*** .... (emphasis added)

Therefore, the relevant period of delay in issuing the patent began on **October 27, 2006** and, as of **September 23, 2009**, our calculations show that the application should receive an additional **769** day term adjustment, for a total of **1380** days. Applicants do not know when the application will issue, and therefore respectfully request that the exact term adjustment be recalculated upon issuance.

Applicants did not file a request for continued examination under 35 U.S.C. § 132(b) during prosecution of the instant application. The instant application was never involved in an interference

or maintained in a sealed condition under 35 U.S.C. § 181. The instant application was not involved in an appeal to the Board of Patent Appeals and Interferences under 35 U.S.C. § 134.

In accordance with 37 C.F.R. 1.18(e), please charge the \$200.00 fee to our Deposit Account No. 08-0219. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 08-0219, under Order No. 0102258.00170US3.

Respectfully submitted,

Dated: September 23, 2009

/Belinda M. Lew/  
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